

Approved as amended.

OPEN SPACE BOARD OF TRUSTEES

Minutes

March 12, 2003

BOARD MEMBERS PRESENT

Ken Dunn	Sean Kendall	Linda Jourgensen
Larry MacDonnell	Linda Andes-Georges	

STAFF PRESENT

Mike Patton	Dean Paschall	Jim Tydings	Jim Reeder
Delani Wheeler	Dave Kuntz	Ann Goodhart	Cecil Fenio
Bryan Pritchett	Ann Armstrong	Matt Jones	Cary Richardson
Lynn Riedel	Lisa Ganz	Walt Fricke	Liz Hanson

CALL TO ORDER

The meeting was called to order at 6:00 p.m.

AGENDA ITEM 1 – Public Participation/Items Not on the Agenda

F. W. Williams, 515 Valley View Drive, told the Board that he was troubled by the order of business. He opined that citizens should be allowed to speak for any agenda item at the beginning of the meeting. He felt that making citizens wait was unfair.

Creighton Stewart, 10775 North 65th Street, gave some background about the purchase of the “Oasis Direct Seven” property by the city and the problems the neighbors are experiencing because of the prairie dogs. He reported that recently he delivered a list of signatures of those neighboring property owners who were requesting the city to manage the prairie dogs so that they remain confined to that city property. He also requested that the city not consider this as a receiving site for relocating prairie dogs. Mike Patton responded that Open Space and Mountain Parks (OSMP) is restricted in what it can do with the prairie dogs due to city ordinance. He admitted that it is a dilemma and that a prairie dog study session with council is being scheduled. Larry MacDonnell added that the issue of prairie dogs is a sensitive one and that staff and the Board are all struggling with it. Creighton told the Board that he thought it was important to bring attention to the situation now while the population is relatively small. In response to a question by Sean Kendall, Bryan Pritchett told him that the population may not be at a sustainable level now.

Don Glen, 658 Furman Way, alerted the Board to some earth moving which is currently occurring on the CU Flatiron property. He told them that it has been going on for about a month and it might be worth looking into. Mike told him that the city is aware of this activity and it is apparently part of the tennis court construction.

Larry MacDonnell expressed his appreciation for Mr. Williams’ frustration and told him that public participation for items not on the agenda is at the beginning of the agenda specifically to provide some convenience to the public. There was discussion regarding the propriety of speaking about issues out of order and it was generally agreed that the preference was to limit conversation to the agenda item at hand.

AGENDA ITEM 2 – Approval of Minutes

Sean Kendall moved that the minutes of February 12, 2003 be approved. Linda Jourgensen seconded the motion. It passed unanimously.

AGENDA ITEM 3 – Director’s Update

Damage to OSMP Property

Dave Kuntz expressed his disappointment in having to report on the most concentrated intentional destruction of open space land that he has observed. The damage occurred along the hogback on the Beech property where vegetation was removed and 12-15 trees cut to create a launching site for hang gliding and paragliding. Chainsaws were used in this clearing process. Dave told the Board that staff was informed of the damage by members of the Rocky Mountain Hang Gliding Association (RMHGA). He added that staff has enjoyed a good working relationship with the Rocky Mountain Hang Gliding and Paragliding Association. As an example, the determination of alternate launching sites near the Hogback Ridge Trail, while the Wonderland area recovers from the fire, was a joint effort between the association and staff. Staff was particularly alarmed because this was not the first time an area had been damaged to provide launching sites and until staff can officially designate areas for this activity there was concern that it may happen again. As part of the visitor plan process, recommendations for suitable sites for this type of activity should be made sometime this summer. Staff is proceeding to cooperate with the City of Boulder Attorney’s Office and the Boulder County Sheriff’s office to investigate and prosecute those responsible to the extent possible. Under an emergency city manager’s rule staff will close the West Beech and the Saddle Rock sites to all flying activities immediately. There will be a 30 day comment period that begins at the time the closure is enacted. During this time staff will be able to consider any new information that may come in and readjust management actions if appropriate. Paragliding and hang gliding privileges will continue on the two sites north of Lee Hill Road near the Hogback Ridge Trail. Generally, use of that area has worked relatively well but staff is still concerned because of its proximity to a prairie dog colony and the amount of activity that occurs in that area. Staff will also move ahead with a city manager’s rule to suspend paragliding and hang gliding activities on the remainder of the OSMP system until appropriate and suitable sites are designated. This “routine” city manager’s rule has been signed and will go into effect after a 15 day public comment period. Dave distributed pictures of the damaged area and copies of the city manager’s rules.

Larry MacDonnell asked if there was a termination date for the city manager’s rule. Dave told him that the suspension will be in effect until it is withdrawn. Mike Patton reminded him that the Visitor Plan Advisory Committee should provide recommendations for suitable locations. Regarding Wonderland Lake, the area will remain closed until at least June and staff will make a determination about whether or not to extend that closure based on moisture and growing condition. To answer Sean Kendall’s question about when the damage occurred; Dave replied that most of it probably happened within the last month. Sean also asked about the possibility of a civil suit to recover monetary damages. There was some discussion about the most suitable legal course to pursue. In reference to seeking compensation, staff advocated that although the snags may not have much market value, for wildlife habitat they are invaluable. Dean Paschall also alerted the Board to the probability of erosion in the newly denuded area.

Scott Westfall, 101 Meadowlook Way, related that the hang gliding community was very distressed by what has happened. He proceeded to give a brief history of the hang gliding and paragliding sports in the Boulder area. He said that the association has had a successful relationship with the city and county and that this destructive action was not representative of the hang gliding community. He appealed to the Board to protect their privilege to continue this activity in the OSMP system.

Kay Tauscher, 1035 Utica Avenue, said she and her husband chose to live near open space because of their interest in this sport. She considers herself and her husband to be environmentally conscientious and felt sickened by the situation. She said that although only one or two individuals were probably responsible for the action the group would like the chance to make amends. She

said that at their next meeting she would propose that members volunteer hours of work to help restore the damaged area. She offered an apology for the whole ordeal and asked that the right to fly not be taken from the group.

Jennifer Beach, 11533 E. Alaska Avenue, President of RMHGA, told the Board that during the association's 28 year existence it has worked hard to develop working relationships with local jurisdictions and land owners. To show support for this issue she pointed out the many members who were able to attend the Board meeting on such short notice. She reminded the Board how the organization has worked with the visitor plan group in the past and passed out a pamphlet published by RMHGA that provides guidelines for gliding on OSMP. Answering a question from the Board, Jennifer told them that out of an estimated 200 pilots in the area about 120 are members of the association. She said the national organization has taken some very recent action on the matter and distributed a letter from the Vice President of the United States Hang Gliding Association (USHGA). The letter stated that several of the identified perpetrator's ratings had been revoked for a period of time to allow for investigation of the incident. She explained that the revocation will remove authorization for the person to fly, teach, launch and fly tandem. Jennifer clarified that the organization is self policing and does not condone such activities. She offered any help the group could provide. Dean Paschall suggested that there may be some advantage in requiring an H-3 rating for this use on open space use similar to what is required for gliding on federal land.

Joe Beach, 11533 E. Alaska Avenue, Treasurer for the RMHGA, agreed with the necessity of taking action on this issue. Regarding the visitor plan process, he reminded the Board that the organization has acted in good faith for years to make things work but cautioned against over-reacting to this incident. Since the damage was reported to OSMP by the user group, he suggested that creating too many restrictions would discourage willingness to disclose such situations.

Matt Jones suggested that if it wasn't for the phone call from Jennifer staff would not have discovered the damage for some time. He added that this particular user group has been a model group to work with.

Granger Banks, 4310 9th Street, told staff and the Board that he was responsible for removing some dead wood but that he did not cut down any trees. He said that he has worked with Open Space in the past and now realizes that he should have asked permission to remove the wood. He said he was willing to accept responsibility but asked that the site remain open.

Mike Patton clarified that it was because of this cooperative relationship that the system was not closed entirely. He reminded the Board and the public that the 2 sites on Dakota Ridge remain open at this time. Ken Dunn was impressed with the attendance of the gliding community and comments made by staff commending this user group. Dave Kuntz reminded the Board of the need for further conversations before a decision is made for changing the closure plan. Larry MacDonnell said that it is important to continue dialogue and stated that generally the Board approved staff's plan for closures.

Visitor Plan Advisory Committee (VPAC)

Dave Kuntz gave summary of the VPAC meeting that was held last Monday. He reported that staff has been meeting with various community groups to talk about how they see their involvement with the VPAC. He announced that two community forums have been added to the meeting schedule, the first being April 7th. This will allow user groups to talk directly with the members of the advisory committee. The other forum will provide the opportunity for the community to see the draft of the VPAC report. The condition of the system will be the focus for the next advisory committee meeting.

Staff and the Board decided that April 12, 2003 would be a good date for the annual OSBT retreat if convenient for the new OSBT member. It was agreed that two-thirds of a day would be required.

West Nile Virus

Bryan Pritchett gave a power point presentation that provided background information on the West Nile Virus. He included some history about local mosquito control practices. He told the Board the focus of OSMP will be: surveillance, prevention, public education and determination of the efficacy of control. Cary Richardson added information about the impact of mosquito control on wildlife and described the results of research on some of the various control techniques. Bryan finished the presentation by describing OSMP strategies for coordinating with city-wide efforts basing actions on the Center for Disease Control's guidelines and other relevant information. Staff will continue to work with the Office of Environmental Affairs and the Boulder County Health Department. He stressed that staff takes the threat of human health seriously and whatever action the department takes will be to decrease that threat.

Linda Andes-Georges asked about the county's use of Malathion and Bryan told her that they have used it routinely for years. She was concerned about the impacts of this substance on birds. Bryan clarified that the state is coordinating local jurisdictions and consulting but is not conducting its own effort and added that staff will be returning to the Board once a plan has been developed.

Bryan then gave a quick update on the reintroduction of the Plains Sharp-tailed Grouse into the southern part of the system. Staff has been coordinating this effort with the Colorado Division of Wildlife.

AGENDA ITEM 4 – Matters from the Board

Linda Andes-Georges suggested offering some kind of field trip for members of Boulder Bike Commuters to check out possible path connections in the Boulder Creek confluence area. She reported that they were impressed with the map staff had prepared that she showed them at a recent meeting. Dave Kuntz suggested that someone from Planning would be appropriate to host such a field trip.

Sean Kendall reported on the IPM Task Force meetings. He told the Board that reducing pesticide use has worked its way into the task force conversations. He requested that, at some point, staff put together an agenda item that would define some things the department could do to reduce pesticide use.

Larry MacDonnell updated the Board on recent correspondence with open space forum participants. They have been sent the compiled information from the breakout sessions as well as the comment cards. Each jurisdiction has been asked to designate a representative to act as a member of the steering committee which would organize and direct future meetings.

Larry told Linda Andes-Georges that the Board would miss her and that they have enjoyed, appreciated and benefited from her tenure and commitment to open space. Linda Jourgensen added that she learned a lot from Linda and that she had a particular knowledge that is not duplicated in the rest of the Board. Linda Andes-Georges said that the experience has been reciprocal, being both stressful and rewarding.

AGENDA ITEM 5 – Request for consideration to purchase 2641 Fourth Street for Open Space and Mountain Parks purposes.

Ann Goodhart described the location of and gave some background on the property, particularly about the zoning situation. OSMP purchased part of the property in 1995 as well as an easement for a trail access. The rest of the property is fully developed as a school. After a visit to the property by the board and staff in December there was general consensus that purchasing the property was not appropriate at this time. The property is listed for \$5.5 million and staff recommends that the Board pass a motion not to purchase it. Ann told the Board that Liz Hanson from Planning was present to answer any questions that they may have. In response to a question from Ken Dunn, Ann explained that staff was requesting this motion because of the planning process yet to come. Due to current citizen interest it would be advantageous for the Board's decision to have been made.

Public Participation

Jed Valeski, 1128 Maxwell, suggested the Board request a discounted purchase price from the sellers.

Bruce Bland, 1340 Lehigh, agreed with staff that making this purchase would not be a wise use of funds and recommended not buying the property.

Christian Griffith, 405 Valley View, explained there is a group of neighbors that would like to buy this property with the option to develop it to a lesser degree than would be allowed. He suggested OSMP co-opt the purchase with the neighborhood and set aside a portion of the property as a park. As a native, he felt proud of Boulder but feared that open space was becoming the backdrop to some very expensive homes. He said that the property does retain some natural qualities and he encouraged the Board to consider buying a portion with the neighborhood or the church, something to mitigate the impacts of full development.

Ron Craig, 260 Cimmaron Way, representative of the Seventh Day Adventist Church, told the Board the school property was being sold because there were not enough students to fund it. He said that they did approach the city to see if they would like to purchase it but the price was too high. The property is currently under contract and closing is expected to occur in a few weeks. Sean Kendall suggested that this should have been brought to the Parks and Recreation Department, because the property seemed more appropriate for a city park than open space. Linda Jourgensen clarified that since the property was under contract discussion of its purchase was a moot point.

Eric, 402 Alpine, was concerned that each group approached tried to pass it off to somebody else. He thought they should all be working together in an effort to keep some element of a greenbelt in the area.

One of the citizens noted that the contract could possibly fall through and that real estate values are fluctuating. He urged the Board not to make a decision now but to keep the possibility open for consideration in the future.

Liz Hanson, Planning and Development Services, explained that the reason this came to the Board was because there was such strong sentiment at the public meeting for OSMP to be approached to purchase this property. She explained some of the details about the problem with the split zoning issue on the property and how Planning would proceed with this process.

Return to Board & Staff

Linda Andes-Georges commented that this property does not possess any of the characteristics reflected in the charter and it is also extremely expensive. She agreed with Sean that it seemed more appropriate for Parks and Recreation to consider it for a city park. Sean Kendall urged citizens to approach Parks and Recreation if the current contract fails.

MOTION

Linda Jourgensen moved that the Open Space Board of Trustees pass a motion not to purchase the 5.68 acres located at 2641 4th Street. Sean Kendall seconded.

Linda reviewed the charter provisions and reiterated that this piece of property did not fit those conditions.

VOTE

The motion passed unanimously.

AGENDA ITEM 6 – Consideration of the 0.15 cent per dollar Open Space sales and use tax for the years 2004 through 2019 proposed for the November 4, 2003 election, and recommendation that the ballot title be modified to include both acquisition and management.

Delani Wheeler explained that staff was bringing this back to the Board because the ballot language, as previously established, would direct all the tax money to acquisitions. Staff has received feedback from Board members and other members of the public that broadens the language to include “all open space purposes would be desirable.” By simplifying the ballot title the tax money would be made available to all Open Space purposes. This change seems logical considering the current budget situation and would give the program more flexibility over the term of the tax.

There was some discussion about the Tabor amendment and how it effects this tax proposal. Staff provided some background information and decided to refer to the city attorney’s office for a more complete explanation. Larry MacDonnell described how the Tabor amendment affected carry over money and although the department is not required to reimburse the public for existing sales tax money not spent, it is required to comply with wording mandates. Ken Dunn alerted staff to potential issues with the dates in sections B-II and B-III. Ken also questioned the possibility to include some language that would clarify the actual amount of money this tax is requesting. It was noted that the wording of the current ballot proposal may be confusing to the voter. He recommended making it more user friendly and staff agreed to have the city attorney’s office look into it.

Public Participation

Bruce Bland, 1340 Lehigh, voiced his opinion that the inclusion of management in the ballot was the right thing to do, especially with the current budget problems. He thought that it would be important to let citizens know what kinds of things come under management, like tree thinning to reduce the fire hazard. Bruce urged everyone to be prepared to talk about the need to include management and encouraged the Board to pass the proposal change.

Return to Board & Staff

Larry MacDonnell clarified that the actual language will say that this funding will be available to use for all open space charter purposes in effort to keep its use flexible.

MOTION

Sean Kendall moved that the Open Space Board of Trustees modify its recommendation to City Council for the additional 0.15 cent per dollar Open Space sales and use tax for the years 2004 through 2019 proposed for the November 4, 2003 ballot to broaden the purposes of the tax to address all open space purposes. Linda Andes-Georges seconded.

VOTE

The motion passed unanimously.

Walter Fricke, city attorney's office, admitted that the dates were a mistake and needed to be corrected. Regarding the possibility of expressing the fractional percent sales tax in a more user friendly way, he told staff and the Board that the current wording is the way it has been done historically. Mike Patton asked about adding clarifying information parenthetically. Ken Dunn urged that this be looked over very carefully so that it is done correctly.

In reference to a comment by Linda Jourgensen, Mike told the Board that discussion of the open space tax, specifically, was not included on the agenda for the council retreat but a general fund tax proposal has been included in the scenarios that they will be discussing. He felt that Frank Bruno will bring up the open space tax sometime during the retreat. Mike added that replacing public safety tax money will be a critical part of the council budget discussion.

ADJOURNMENT – The meeting adjourned at 9:05 p.m.

These draft minutes were prepared by Cecil Fenio.